

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

SUNGJIN INC CO., LTD.,

Case No. 1:19-cv-09496-GBD-GWG

Plaintiff(s),

v.

DECLARATION

ITOCHU INTERNATIONAL INC.;
ITOCHU LOGISTICS (USA) CORP.;
KENNETH HOROWITZ d/b/a BAG
STUDIO, LLC; and
LE SPORTSAC, INC.,

Defendant(s).

PETER Y. LEE, ESQ. hereby declares, pursuant to 28 U.S.C. §1746, under penalty of perjury, as follows:

1. I am a member of the Bar of this Court and attorney-of-record for plaintiff, SUNGJIN INC CO., LTD. (**Plaintiff**) in the above-captioned action. I submit this declaration in accordance with Judge Gorenstein's Court order filed March 18, 2020 (**ECF 43**) and have personal knowledge of the following facts.

2. Bag Studio, LLC is a New York limited liability company formed November 24, 2015. I know this because I researched the website for the New York Department of State, Division of Corporations (**DOS**). As of April 5, 2020, DOS records show that Bag Studio, LLC is an "active" entity with "DOS ID #" 4854931 and registered address for process of service at "Kenneth Horowitz, 158

Foxwood Drive, Jericho, New York 11753.” (Kenneth Horowitz (**Horowitz**) is named in the second amended complaint.)

3. Bag Studio, LLC has two members: Defendant Horowitz and Mr. Ping Kei Chan a/k/a Wilson Chan. Defendant Horowitz is a New York citizen and resident. Mr. Chan is a citizen of Hong Kong, a Special Administrative Region of the People's Republic of China. I learned this information from Clifford Katz, Esq., the former attorney for Bag Studio, LLC and defendant Horowitz: Mr. Katz and his firm withdrew from the case by Court order filed March 2, 2020 (**ECF 33**). (Mr. Katz and his firm are also the (former) attorneys for Bag Studio, LLC and defendant Horowitz in Excelsia Leatherware Company vs. Kenneth Horowitz, et ano., N.Y. Sup. Court Index No. 653291/2019 (previously, S.D.N.Y. Civ. Action No. 1:19-cv-03127-VM).) (The complaint in Excelsia is attached as **Exhibit 1**.¹)

4. Plaintiff's second amended complaint (**SAC**) omits Bag Studio, LLC as party defendant because plaintiff has no contract with Bag Studio, LLC: The SAC shows that plaintiff's manufacture and delivery of “Le Sportsac” goods and services never would have been possible but for plaintiff's initial “customer registration” with the Itochu Defendants. (See SAC at ¶44, and the “customer registration” form attached as **Exhibit 2**.)

¹ Excelsia is also a collection case against defendant Horowitz by a foreign manufacturer seeking payment for goods and services. (Bag Studio, LLC is also a party in the Excelsia case.)

5. Although the SAC identifies both defendant Horowitz and Bag Studio, LLC as the Itochu Defendants' "Le Sportsac" "licensees," plaintiff processed orders for all defendants (and Bag Studio, LLC) but received payments only from the Itochu Defendants. (SAC at ¶¶19, 38.) Our internal investigation shows that defendant Horowitz, personally, assured plaintiff that payment was not only forthcoming in spite of mounting arrears, but he also continued to order more "Le Sportsac" product.

6. I obtained and verified the foregoing facts set forth in the SAC from Mr. Chan-Ui Park a/k/a Daniel Park, who is plaintiff's general manager and has personal knowledge of all transactions with the defendants and Bag Studio, LLC. We believe defendant Horowitz' actionable conduct, among other things, comprises or contributes to the "dispute" (among the Bag Studio, LLC member(s)) necessitating Mr. Katz' withdrawal from the case. (See **ECF 22** at ¶4.)

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Date: April 6, 2020

/s/ Peter Y. Lee
By: _____
PETER Y. LEE